

HOUSE BILL No. 1911

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3-1-3.5.

Synopsis: Income tax exemption for eminent domain awards. Excludes from an individual's state adjusted gross income or a corporation's state taxable income an award received in an eminent domain proceeding to the extent the award is included in the individual's federal adjusted gross income or the corporation's federal taxable income and is not offset by losses.

Effective: July 1, 2003.

Cherry, Welch

January 23, 2003, read first time and referred to Committee on Ways and Means.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1911

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.192-2002(ss),
2 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 3.5. When used in this article, the term "adjusted
4 gross income" shall mean the following:

5 (a) In the case of all individuals, "adjusted gross income" (as
6 defined in Section 62 of the Internal Revenue Code), modified as
7 follows:

8 (1) Subtract income that is exempt from taxation under this article
9 by the Constitution and statutes of the United States.

10 (2) Add an amount equal to any deduction or deductions allowed
11 or allowable pursuant to Section 62 of the Internal Revenue Code
12 for taxes based on or measured by income and levied at the state
13 level by any state of the United States.

14 (3) Subtract one thousand dollars (\$1,000), or in the case of a
15 joint return filed by a husband and wife, subtract for each spouse
16 one thousand dollars (\$1,000).

17 (4) Subtract one thousand dollars (\$1,000) for:



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- 1 (A) each of the exemptions provided by Section 151(c) of the
 2 Internal Revenue Code;
 3 (B) each additional amount allowable under Section 63(f) of
 4 the Internal Revenue Code; and
 5 (C) the spouse of the taxpayer if a separate return is made by
 6 the taxpayer and if the spouse, for the calendar year in which
 7 the taxable year of the taxpayer begins, has no gross income
 8 and is not the dependent of another taxpayer.
- 9 (5) Subtract:
- 10 (A) one thousand five hundred dollars (\$1,500) for each of the
 11 exemptions allowed under Section 151(c)(1)(B) of the Internal
 12 Revenue Code for taxable years beginning after December 31,
 13 1996; and
 14 (B) five hundred dollars (\$500) for each additional amount
 15 allowable under Section 63(f)(1) of the Internal Revenue Code
 16 if the adjusted gross income of the taxpayer, or the taxpayer
 17 and the taxpayer's spouse in the case of a joint return, is less
 18 than forty thousand dollars (\$40,000).
- 19 This amount is in addition to the amount subtracted under
 20 subdivision (4).
- 21 (6) Subtract an amount equal to the lesser of:
- 22 (A) that part of the individual's adjusted gross income (as
 23 defined in Section 62 of the Internal Revenue Code) for that
 24 taxable year that is subject to a tax that is imposed by a
 25 political subdivision of another state and that is imposed on or
 26 measured by income; or
 27 (B) two thousand dollars (\$2,000).
- 28 (7) Add an amount equal to the total capital gain portion of a
 29 lump sum distribution (as defined in Section 402(e)(4)(D) of the
 30 Internal Revenue Code) if the lump sum distribution is received
 31 by the individual during the taxable year and if the capital gain
 32 portion of the distribution is taxed in the manner provided in
 33 Section 402 of the Internal Revenue Code.
- 34 (8) Subtract any amounts included in federal adjusted gross
 35 income under Section 111 of the Internal Revenue Code as a
 36 recovery of items previously deducted as an itemized deduction
 37 from adjusted gross income.
- 38 (9) Subtract any amounts included in federal adjusted gross
 39 income under the Internal Revenue Code which amounts were
 40 received by the individual as supplemental railroad retirement
 41 annuities under 45 U.S.C. 231 and which are not deductible under
 42 subdivision (1).

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(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) For taxable years beginning after December 31, 2003, subtract an amount equal to the difference between:

(A) an amount that is:

(i) awarded to the individual as a final judgment in an

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1 **eminent domain proceeding under IC 32-24; and**
 2 **(ii) included in the individual's adjusted gross income**
 3 **under Section 62 of the Internal Revenue Code; minus**
 4 **(B) any losses deductible under Section 165 of the Internal**
 5 **Revenue Code.**

6 (b) In the case of corporations, the same as "taxable income" (as
 7 defined in Section 63 of the Internal Revenue Code) adjusted as
 8 follows:

9 (1) Subtract income that is exempt from taxation under this article
 10 by the Constitution and statutes of the United States.

11 (2) Add an amount equal to any deduction or deductions allowed
 12 or allowable pursuant to Section 170 of the Internal Revenue
 13 Code.

14 (3) Add an amount equal to any deduction or deductions allowed
 15 or allowable pursuant to Section 63 of the Internal Revenue Code
 16 for taxes based on or measured by income and levied at the state
 17 level by any state of the United States.

18 (4) Subtract an amount equal to the amount included in the
 19 corporation's taxable income under Section 78 of the Internal
 20 Revenue Code.

21 **(5) For taxable years beginning after December 31, 2003,**
 22 **subtract an amount equal to the difference between:**

23 **(A) an amount that is:**

24 **(i) awarded to the corporation as a final judgment in an**
 25 **eminent domain proceeding under IC 32-24; and**

26 **(ii) included in the corporation's taxable income under**
 27 **Section 63 of the Internal Revenue Code; minus**

28 **(B) any losses deductible under Section 165 of the Internal**
 29 **Revenue Code.**

30 (c) In the case of life insurance companies (as defined in Section
 31 816(a) of the Internal Revenue Code) that are organized under Indiana
 32 law, the same as "life insurance company taxable income" (as defined
 33 in Section 801 of the Internal Revenue Code), adjusted as follows:

34 (1) Subtract income that is exempt from taxation under this article
 35 by the Constitution and statutes of the United States.

36 (2) Add an amount equal to any deduction allowed or allowable
 37 under Section 170 of the Internal Revenue Code.

38 (3) Add an amount equal to a deduction allowed or allowable
 39 under Section 805 or Section 831(c) of the Internal Revenue Code
 40 for taxes based on or measured by income and levied at the state
 41 level by any state.

42 (4) Subtract an amount equal to the amount included in the

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company's taxable income under Section 78 of the Internal Revenue Code.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by:

(1) income that is exempt from taxation under this article by the Constitution and statutes of the United States; and

(2) an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

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